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2
3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 GREGORY GUERRERO,

7 Plaintiff,

8 v.

9 MICHAEL J. ASTRUE, Commissioner of
10 Social Security,

11 Defendant.

Case No. 3:11-cv-05722-RJB-KLS

REPORT AND RECOMMENDATION TO
DENY APPLICATION TO PROCEED *IN*
FORMA PAUPERIS

Noted for October 7, 2010

12
13 This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28
14 U.S.C. § 636(b)(1) and Local Rule MJR 3 and 4. This matter comes before the Court on
15 plaintiff's filing of an application to proceed *in forma pauperis* and a complaint to review and set
16 aside a decision of the Social Security Administration under 42 U.S.C. § 405(g). Because
17 plaintiff's application indicates he has sufficient income with which to pay the \$350.00 filing fee,
18 the undersigned recommends that the Court deny the application.
19

20 DISCUSSION

21 The Court may permit indigent litigants to proceed *in forma pauperis* upon completion of
22 a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the Court has broad
23 discretion in denying an application to proceed *in forma pauperis*. Weller v. Dickson, 314 F.2d
24 598 (9th Cir. 1963), cert. denied, 375 U.S. 845 (1963).
25

26 By requesting the court to proceed *in forma pauperis*, plaintiff is asking the government
to incur the filing fee because he allegedly is unable to afford the costs necessary to proceed with
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1 his cause of action. In his application, plaintiff indicates he receives Veterans Administration
2 benefits in the amount of \$2,914.00 per month, and has \$500 to \$600 currently in his checking
3 account. See ECF #1. While the undersigned recognizes that \$2,914.00 per month does not
4 constitute a substantial income, given that there are no other persons who are dependent upon
5 plaintiff for support (see id.), it does not seem unreasonable to expect him to pay the required
6 filing fee.

8 CONCLUSION

9 Because it is reasonable for plaintiff to incur the costs to proceed with this cause of
10 action, the undersigned recommends that the Court deny his application to proceed *in forma*
11 *pauperis*. Accordingly, the undersigned also recommends that the Court order plaintiff to pay
12 the required filing fee within **thirty (30) days** of the date of its order adopting this Report and
13 Recommendation.

14 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedures (“Fed. R.
15 Civ. P.”) 72(b), the parties shall have **fourteen (14) days** from service of this Report and
16 Recommendation to file written objections thereto. See also Fed. R. Civ. P. 6. Failure to file
17 objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474
18 U.S. 140 (1985). Accommodating the time limit imposed by Fed. R. Civ. P. 72(b), the Clerk is
19 directed set this matter for consideration on **October 7, 2011**, as noted in the caption.
20

21 DATED this 22nd day of September, 2011.
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24 
25 Karen L. Strombom
26 United States Magistrate Judge